

JANUARY 8, 1958

HONORABLE AARON K. NEELD  
State Treasurer  
State House  
Trenton, New Jersey

## MEMORANDUM OPINION—P-1

DEAR STATE TREASURER:

You have requested advice as to whether or not a member of the Police and Firemen's Retirement System electing additional death benefit coverage may thereafter cancel this election.

N.J.S.A. 43:16A-9.1 provides as follows:

"(1) Within 6 months after July 1, 1955, or after the effective date of membership, whichever date is later, each member shall have the right to select additional death benefit coverage \* \* \*.

"(2) Each member selecting the additional death benefit coverage under this section shall agree to the deduction of a percentage of his compensation in addition to that required under section 15 \* \* \*.

"(3) The percentage rate of contribution payable by members selecting coverage under this section shall be subject to adjustment from time to time by the board of trustees on the basis of annual actuarial valuations and experience investigations as provided under section 13, so that the value of future contributions of members selecting the additional death benefit coverage under this section when taken with present assets held for such additional death benefits, shall be equal to the value of prospective benefit payments.

"(4) All other provisions of this section notwithstanding, this section and the benefits provided under this section shall not come into effect until a required percentage of the members shall have applied for the additional death benefit coverage under this section. This required percentage shall be fixed by the board of trustees and shall not be less than 65% nor more than 75% of the members. Such application shall be made with the secretary of the board of trustees in such manner and upon such forms as the board of trustees shall provide.

"(5) Any other provision of this act notwithstanding, the additional contributions of members selecting the additional death benefit coverage under this section shall not be returnable to the member or his beneficiary in any manner, or for any reason whatsoever, nor shall such contributions be included in any annuity payable to any such member or his beneficiary."

From reading the foregoing statute it becomes apparent that a member has the right to decide whether or not he shall select the additional death benefit coverage. The statute further states that the additional contributions of a member selecting additional death benefit coverage shall not be returnable to the member or his beneficiary in any manner or for any reason whatsoever.

Since a member has the right to select the additional death benefit coverage, he should also have the right to terminate or cancel the said coverage and relieve himself of making further contributions for said additional death benefit.

Very truly yours,

GROVER C. RICHMAN, JR.  
*Attorney General*

By: FRANK A. VERGA  
*Deputy Attorney General*

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HONORABLE AARON K. NEED  
*State Treasurer*  
State House  
Trenton, New Jersey

MEMORANDUM OPINION—P-2

DEAR MR. NEED:

Our opinion has been requested as to the applicability of the statutory procedure for advertisement for bids to the acquisition by State departments and agencies of articles or supplies which are manufactured or produced by institutional labor pursuant to R.S. 30:4-92 et seq. We advise you that such transactions are not governed by the State Purchase Act (P.L. 1954, c. 48).

The State Purchase Act vests authority in the Director of the Division of Purchase and Property over all purchases, contracts or agreements to be paid in whole or in part out of State funds, subject to the requirement of advertisement for or waiver of bids. The terms "purchases, contracts or agreements" connote transactions between separate legal entities. Articles manufactured by institutional labor in the State institutions are not purchased or contracted for purchase by the respective State departments or agencies to which they are supplied, but are transferred pursuant to a system of debits against the receiving department or agency and credits in favor of the State Use Division in accordance with R.S. 30:4-100, which we quote:

"The Legislature shall annually appropriate to the department a sum for working capital, which may be allotted by the State Board among the several institutions, which the State Treasurer shall, upon the Comptroller's warrant of the State Commissioner of Taxation and Finance, as directed by rule or order of the State Board, advance to the several officers of the respective institutions designated as the custodians of the working capital thereof. Settlements between institutions, departments, boards and other State agencies shall not be made in cash, but by debits and credits on the comptroller's books. The custodian of working capital funds of an institution shall, on or before the tenth day of each month, file with the State House Commission a statement showing all deliveries made by such institution during the month immediately preceding. Delivery shall be considered to have been made only when the producing institution shall have received and submitted, with its monthly report, the acknowledgment of receipt from the receiving institution,